

Municipal Council Meeting
Town Hall Auditorium
May 11, 2004 7:00PM

Pledge of Allegiance – Councilor Lawrence

Roll Call: Anne C. Larnard, Christopher G. Lawrence, Mario J. Pinierio, Robert D. Woodsom, Roger Benson, James D. Chandler, Ann Connolly King, Esther F. Headley and Joseph W. McMilleon

2004-53 Joint meeting with Planning Board to elect a member term to expire 2007

Planning Board Roll Call: John R. MacDonald, Howard G. Dalton, Timothy Sekelsky, Hilary Ward

Joint meeting called to order.

Ara Sanentz, 44 Glen Devin – Mr. Sanentz explained his reasons for wanting to serve and give back to the community where he has lived for 27 years. Application attached.

William H. Parker III, 60 Merrimac St. – Unable to attend meeting. Application attached.

It was decided because Mr. Parker was unable to attend to answer questions or concerns from the planning board or council the joint meeting would be held at a later date.

Councilor Benson – I move we have a joint meeting with the planning board May 18th at the beginning of their meeting at 6:30.

Councilor Pinierio – second

Voted – Unanimous

President McMilleon – We are adjourned from this joint meeting.

PUBLIC COMMENT

President McMilleon – I want to read a few clarifying points of information as we enter into the public comment and council meeting on decorum. There are sheets that you sign if you want to make a comment during public comment period in the back of the room. There are also copies of the decorum rules and regulations of the municipal council. Copies attached

The additional rules attached not only apply to the public but also to the council. Everyone needs to be on the same page on this. The public and the council are supposed to conduct themselves in an orderly way so that we can get through the business at hand. If everyone does that everyone will have an opportunity to say what they want to say, make their comments, provide their information and we can get on with the business of getting through the agenda. With that we will open the public comment period.

James Thivierge, 11.5 Sanborn Terrace – Reads a letter of support from Senator Steven Baddour for his Senate Bill 2332 - A Bill relative to Municipal Finance “The Creation of Municipal Stock”. I hope the council members will review this and if any members of the community have any questions please ask me. On file at the clerks office.

Marc Deschenes, 1 Highland Street – Speaking tonight about the management reports. I would like to see a workshop with the administration to see how it is we are addressing some of the

recommendations made in the management reports. Some of these issues come out year after year and never seem to be talked about in a public way. I would like to sit at a meeting with the administration and go over some of these recommendations.

Tom Iacobucci – I would like to address the issue of public comment. We on the charter commission and the first council when the first rules and procedures were written, set a president allowing anyone to come and speak on any issue including expressing opinions regarding public officials. I hope we will continue that. The other issue is CIP; it is a requirement in the charter. It is to be made available in the library and the town clerks office and to anyone in the community. This is a planning document generated by each individual department. If there is found money midway thru the year you can go back into the CIP and find the critical items that need to be addressed. The CIP also affects the bond rating. The last issue is programs to help people that can't afford to pay their taxes. The two programs are Clause 41A, and Clause 18. The town needs to really think about these programs because it does not take from the levy that amount of money and the town can still spend that money. Before we use these as a mechanism you should understand the impact. The burden is shifted to other people.

Meg Costello, 193 Elm Street - Speaking on 2004-13. There are laws that exist to prevent abuse of private and public property. Dogs must be kept on a leash and owners are required to clean up after their pets. I think there should be a voluntary neighborhood watch at the Mt. Prospect cemetery. We have started a watch and the result is a much cleaner cemetery in respect to dog waste. The convenience and pleasure we get from our walks in the cemetery are something we value greatly. I hope our efforts to address Ms. Snows legitimate complaints will not go unrecognized. We would like to continue to walk our dog in a lawful and respectful manner in our own neighborhood.

Councilor King – In response to Mr. Deschenes, I did ask Mike Basque about that document when I met with him last week. It was sent back for clarification and we should have that shortly.

Councilor Headley – I was listening to Mr. Iacobucci, I think he left out something. I would like to say people should realize that when that money is paid back it is at 8% on what you have put away. If it should be 1 year or 2 years the town is going to make good money on it. Secondly, I don't know why there seems to be this thought that it is an absolute horrible crime to put your taxes on lay away. I am probably the first person in my family that put their taxes away on lay away. I am neither proud nor otherwise but, I have put my taxes on lay away and I don't think I am doing any disgrace to any other person in town.

LICENSES AND PERMITS

2004-38 Pole Hearing – Verizon – Thompson Street cont.

President McMilleon – reads 2004-38 into the record.

Kathy Fraiser – Right of Way Manager, Verizon – Here tonight for the placement and removal of two poles on Thompson Street at the request of Mass Highway due to the rebuild of the bridge. This hearing was postponed due to abutter concerns; changes were made and a revised plan was drawn.

Don Nadeau, 37 Thompson Street – I had an objection with the first plan and I called Kelly Francis at Verizon. She listened to my concerns and relocated the pole. I would like to thank Rob Desmarais and Verizon, they have been nothing but professional.

Councilor Lawrence – I move for approval of 2004-38 as submitted.

Councilor Benson – second

Voted – Unanimous

2004-54 New – Dine, Dance & Entertainment License – Barking Dog Bar & Grill

President McMilleon – reads 2004-54 into the record

Jeff Nahas, Owner Barking Dog Bar & Grill – We are looking for two or three night with a guitar play, a little ambiance. Probably on Tuesday and Wednesday night and maybe Saturday night late.

Councilor Pinierio – There are some apartments just down the street.

Jeff Nahas – It will just be a guitar player so it won't be any louder than the music that is already on.

Councilor Benson – I move for approval for 2004-54 as submitted.

Councilor Pinierio – second

Voted – Unanimous

2004-56 License Renewal – Junk Dealers, Sunday Bowling, Weekday Bowling, Sunday Pool, Weekday Pool (list attached)

President McMilleon – reads 2004-56 into the record. R.A.H. Second Hand Store and More, 46 Market Street and Liberty Antiques, 11 Macy Street have not signed their renewals.

Councilor Benson – I move to approve 2004-56.

Councilor Pinierio – Second

Voted – Unanimous

MAYOR COMMUNICATIONS AND APPOINTMENTS

2004-59 Appointment of Juliann MacDonald member of the Historical Commission for an unexpired term to expire 6/30/2004

President McMilleon – reads 2004-59 into the record

Juliann MacDonald, 334 Main Street – Has lived in Amesbury for 2 year and has been a licensed architect for 15 years. Wants to help out and preserve the great history in Amesbury.

Councilor Lawrence – I move for approval of 2004-59 as submitted.

Councilor Pinierio – second

Voted – Unanimous

SECOND READINGS

2004-17 An Act to provide for services to Christopher Way – Councilor Benson sponsor cont.

President McMilleon – reads 2004-17 into the record

Councilor Benson – I am still waiting for word from the Mayors Office, he was going to look into a couple of things on this for me. I would ask that we table this again.

Orlando Pacheco – All the information that was requested at Councilor Bensons meeting with the Mayor and Building Inspector was forwarded to the residents. The only piece of information left that we are trying to clarify is who is responsible for any sort of liability on the public access easement and we are working that out with the insurance company right now. If it is the town, that needs to be added to the policy. If it is the residents there is a mechanism because it is a public access easement to add that particular piece on as additional insured. How we work that language out needs to be clarified. I can forward that information to you. I will send you the same packet I sent to the residents.

Councilor Pinierio – second

Voted – Unanimous

President McMilleon – I am going to go back we were remiss, I did not accept the minutes for April 13th.

Councilor Lawrence – I move for a conditional approval since we just received them tonight.

Councilor Chandler – second

Voted - Unanimous

2004-32 An Order to request the Municipal Council vote to increase the Planning Board Filing Fee schedule – Mayor Hildt sponsor cont.

President McMilleon – reads 2004-32 into the record.

Councilor Lawrence – The Ordinance Committee recommended approval of 2004-32.

Councilor Woodsom – The Finance Committee recommended approval of 2004-32.

Councilor Lawrence – I move for approval as submitted.

Councilor Chandler – seconded

Roll Call Vote – Yes, 9 Unanimous

2004-35 An Order to vote \$3,600,000 to be appropriated for constructing an addition to and remodeling of the Amesbury Library – Mayor Hildt sponsor cont.

President McMilleon – reads 2004-35 into the record.

Councilor Woodsom – The recommendation from the Finance Committee was to continue this to the June 23rd Finance Committee meeting and to continue the public hearing also.

Councilor Benson – I move the recommendation of the Finance Committee.

Councilor Lawrence – second

Voted – Unanimous

2004-40 An Order to request the Municipal Council to accept a N.E.E.T. Grant in the amount of \$21,000 – Mayor Hildt sponsor cont.

President McMilleon – reads 2004-40 into the record.

Councilor Woodsom – The recommendation of the Finance Committee was to approve as submitted that is my motion.

Councilor Pinierio – seconded

Roll Call Vote – Yes, 9 Unanimous

2004-46 An Order to request that the Municipal Council surplus Amesbury Public Schools computer equipment – Mayor Hildt sponsor cont.

President McMilleon – reads 2004-46 into the record.

Councilor Woodsom – The Finance Committee recommends to approve as submitted and I would like to make a motion to that affect.

Councilor Benson – Second

Councilor Pinierio – Does anybody remember what they were going to do with the old equipment?

Councilor Woodsom – The monitors were going to be treated as universal waste because they have mercury in them. The rest of the equipment they were going to do what they could....

Councilor Pinierio – OK, I remember.

Roll Call Vote – Yes, 9 Unanimous

2004-49 An Order to request that the Municipal Council allow the Town of Amesbury to accept an Urban Self Help Grant in the amount of \$325,000 – Mayor Hildt sponsor

President McMilleon – reads 2004-49 into the record.

Councilor Benson – I would like to suspend the rules.

Councilor Pinierio - second

Voted – Unanimous

Mike Greaney – My question is, are there any matching funds attached to this grant?

Councilor Lawrence – I believe Joe Fahey advised us at the last meeting that it was in-kind services from the DPW.

Joe Fahey – It was a combination of things, there is a matching requirement, \$300,000 will be coming from the CDBG funds and there is some drainage work that is coming from the DEP grant that you are hearing about, I think it is on your agenda to approve that. In consequence some of the match to the DEP grant is DPW work. The grant that you have before you now is being matched by the \$300,000 from CDBG funds.

Councilor Pinierio – This grant is for the upper millyard and all the drainage. DPW is going to do some work on this project. Do you have any idea how many man hours it is going to cost the town when the DPW could be doing something else?

Joe Fahey – I am not certain, I do know that the grant that they are using is from DEP for the storm water management program that they were supposed to institute along the Powow River and the lakes. It is something that they have to do as part of the grant program and as part of the storm water management regulations. This work that is being done along the parking lot, it is basically the drainage along the parking lot that has to be re-directed, I don't have a specific answer as to how much time is involved on their part.

President McMilleon – Joe, it is fair to say that we are leveraging the time of the DPW to compliment the work that is being done for the community that is being done through this grant.

Joe Fahey – Right, over and above this grant.

Councilor Benson – Also, they are sort of letting us use one grant as a match for another.

Councilor Pinierio – Which they normally don't do, correct?

Joe Fahey – Normally they don't but, in the case of CDBG money you can use that as a match against another Federal grant, which this is. We have done it in the past very successfully.

President McMilleon – I declare the council back in session. Do I hear a recommendation on this?

Councilor Woodsom – I move the recommendation of the Finance Committee to approve as submitted.

Councilor Pinierio – Seconded

Roll Call Vote – Yes, 9 Unanimous

2004-51 A Resolution to request that the Municipal Council vote to transfer the Town owned land at 18 Water St. to the Merrimac Valley Regional Transit Authority – Mayor Hildt sponsor cont.

President McMilleon – reads 2004-51 into the record.

Councilor Woodsom – The Finance Committee tabled this until their May 26th finance meeting per a recommendation from the Mayor and I will make that my motion.

Councilor Chandler – second

Voted – Unanimous

2004-52 An Order to request the Municipal Council to accept a grant in the amount of \$124,700 from the Dept. of Environmental Protection – Mayor Hildt sponsor cont

President McMilleon – reads 2004-52 into the record.

Councilor Woodsom – The recommendation from the Finance Committee is to approve as submitted and I would like to move the recommendation of the Finance Committee.

Councilor Benson – Second

Roll Call Vote – Yes, 9 Unanimous

President McMilleon – call for a recess 8:15PM back in session 8:25PM

PUBLIC HEARINGS

2004-10 Request a vote to file a Home Rule Petition with the State Legislature for the formation of the Amesbury Economic Development Corp. – Mayor Hildt sponsor

President McMilleon – reads 2004-10 into the record. This was tabled to schedule a meeting only. We still don't have any information from the Mayor's office in terms of when he would like to have this?

Councilor Benson – Hopefully after budget. Do we know when the deadline is to submit this to the state legislature? If we do this in July are we going to run up against the deadline?

President McMilleon – We are still working on this, we are still doing the research on this. We want to set up the meeting sometime in July. Let's plan it for after the Council meeting on July 13th at 8:00PM and then we will go from there.

Councilor Chandler – second

Voted – Unanimous

2004-13 Amend Amesbury Town By-Law, Article 25 – Animal Control & Licensing By-Law, Section 25.7 and 25.8 – Councilor Pinierio sponsor cont.

President McMilleon – reads 2004-13 into the record. The public hearing is open.

David Costello, 193 Elm Street – I passed out to all of you a copy of this March 18th proposal to keep the cemetery open in opposition to the pet ban at Mt Prospect Cemetery. Many people compare Mt. Prospect with Collins St Park and Woodsom Farm, what is going on in those places has nothing to do with Ms. Snow's original complaint. I checked with Newburyport and Salisbury and dogs are permitted in all cemeteries and public places as long as the leash and waste disposal laws are adhered to. I have spoken with people at family plots, some were aware of the controversy and all had no problem at all with dogs in the cemetery providing they adhere to the existing laws. I feel our interest has brought positive attention to a space that has been largely neglected for to long. We remain committed to the cause of bettering the conditions at Mt. Prospect cemetery and to opposing the pet ban for the following two reasons. 1) It is absolutely right to demand that pet owners take full responsibility for the behavior of their dog as defined by existing laws. 2) Although it is true that the individual lots are private property it is also true that Ms. Snow can not claim to represent the majority of the other Mt. Prospect property owners. In fact, hers has been the lone voice in favor of a pet ban. Since when do the wishes of a single party supercede the rights and wishes of many especially when there are laws on the books to protect their interests?

Councilor Lawrence – This has been a very confusing issue for some time. We do have a recommendation from the ordinance committee. Before I get into that I do have a couple of comments to help make this clear to the public. 2004-13 started out as legislation that would support an ordinance passed by the previous council and that was 2003-85 by then Councilor Brooks, allowing the town to produce signs at town owned cemeteries. At that time there was no by-law to back up the placement of signs. That is where Councilor Pinierio came up with 2004-13, no walking of animals should be allowed at any town owned cemetery governed and maintained by the town of Amesbury

and that is the issue we are dealing with. We are not dealing with any other issue, town parks, playgrounds and so forth. Mr. Costello and most of us here know we do have a leash law in town which means no dogs running at large and that includes the cemetery which means that dogs can only be in the cemetery on the paved road ways because the cemeteries are, as Ms. Snow the Costello's have admitted, are deeded properties. They are privately owned, it is the same as looking over the neighborhood, there is one house and another, they are all privately owned. This means dogs can only be walked on the paved roadways which are the public roads. So, that is the way the laws are on the books. We do have a problem with dogs running loose and at large. The second part of Councilor Pinierio's bill was to add fines to the no dogs at the cemetery. What we did at the ordinance committee meeting after discussions with Eileen Green, who did support Councilor Pinierio's position because of the dog waste within the cemetery, was to recommend approval of 2004-13, no walking of animals should be allowed in any public cemetery governed and maintained by the Town of Amesbury. The 4th paragraph would be changed that has to do with the fees. The Ordinance Committee updated the fees and fines so they are comparable to our neighboring communities. The Ordinance Committee recommended for approval that the Amesbury Municipal Council voted to amend article 25.7 as follows: **No walking of animals should be allowed in any public cemetery governed and maintained by the Town of Amesbury.**

And the fourth paragraph of 2004-13 be presented to the Council as follows:

That the Amesbury Municipal Council votes to amend Article 25.8 as follows:

Any dog found running at large will be placed in a suitable pound and will not be released to its owner until a pick up charge of **twenty five dollars (25.00)** for the first pick up; **thirty five dollars (35.00)** for the second pick up; **fifty dollars (50.00)** for each subsequent pick up; and a daily boarding fee of **twenty dollars (20.00)** has been paid to the town. Any owner or keeper of a dog who permits the same to run at large in violation of this bylaw shall be fined **twenty five dollars (25.00)** for the first offense within a year and **thirty five dollars (35.00)** for each subsequent offense within the same year. That was voted 5 in favor and 1 opposed.

Councilor McMilleon – Does this include the first part of that where you said no dogs allowed in the cemetery. Is there a fine for that?

Councilor Pinierio – I believe that comes under 25.7A.

Councilor King – The Ordinance Committee, when they move a recommendation it is not recommending what the content is, it is recommending that it is worded in such a way that it can be presented before the Municipal Council. So when they say the Ordinance Committee recommends approval of, it is approval of the ordinance not of the content. Also, I get very confused about this; I need to clarify this in my own mind. What was Councilor Brooks' ordinance; was it just a recommendation that they don't come into the cemetery. What does that mean, was that a by-law or ordinance and if not, is what Councilor Pinierio is doing now making that a by-law?

Councilor Lawrence – 2003-85 passed allowing the town to produce signs at town owned cemeteries and that had to do with the hours of operation and no dogs allowed. So, basically we did pass an ordinance however; there was not a by-law to back it up. We did the cart before the horse type of thing. What Councilor Pinierio is doing is trying to clean it up because of other issues that have come forward since.

Councilor King – So we are voting on whether to ban dogs in the cemetery. We are not voting just to attach a sign, we are voting to ban dogs and to attach a sign to it.

Lawrence Quinn – If this is a law why is it just in the cemetery? It should be town wide.

Councilor Lawrence – There are actually three issues here; you have the banning of the dogs, leash law running at large and a waste problem. There is a waste by-law on the books right now which means; waste not being picked up is a violation of the town by-laws. So there is a by-law for waste and a leash law.

Dave Costello – If the council voted against the bill we would still have a sign ordinance banning dogs in the cemetery that was started with Mr. Brooks. If that happened would it then require a sponsorship from a councilor to amend that bill from Councilor Brooks? If the council was willing to let the neighborhood do what they do so well and we have increased fines which is fine because we want to abide by the law so we would just need someone to sponsor a bill.

Councilor Lawrence – That would be a bill to rescind 2003-85

Councilor Benson – We could amend it and change the words on a new sign.

Councilor Headley – This whole thing has got me kind of confused. I think it is the most natural thing in the world to take your dog out for a walk but, I do think you ought to take care of it. I don't want to deprive anybody the right to take their dogs out on the sidewalk because dogs are used for so many reasons. There are many seeing eye dogs and therapy dogs are we going to ban every dog in town. Where are they going to keep their dogs if they can't go out with them any more? It just doesn't make sense to me and as I understand it every dog in town still has to be on a leash and paying for all these other things to keep that dog and yet they are told they can't do this and they can't do that with it. I'm all for keeping them on a leash. I also heard last week that there is a sign in a window in Peabody that says "Want to take your dog out for a run, go to Amesbury there are loads of places."

Councilor Woodsom – I just don't agree to punish the masses for a couple irresponsible dog owners who don't obey they law. I have speeders on Lions Mouth Road, are we going to ban cars from Lions Mouth Road because a couple people speed and don't obey the laws? We have not even posted a sign at the cemetery like those great signs you showed us in Newburyport. They were large and colorful, they really get the point across. We have not tried that I don't know why we are not trying that before we start banning dogs. I don't have disrespect for cemeteries. My mother is in the cemetery on Rt. 110, my brother in law is in the cemetery on Rt. 110. I take my dog there to visit, I do it quite frequently and I don't see anything wrong with it and will continue to do that. I'm really against this.

Jane Snow – I want to clarify this, I am not against dogs. Elderly people come to the cemetery and are afraid to get out of their cars because you have people that won't obey the law. We tried the route of calling the dog officer and we supplied license plate numbers. The way the laws are written you tie our hands; they can do nothing unless the dog officer sees it herself. On private property you can call and the dog officer will come out and support you. I can't do that in the cemetery and yet what I am really concerned about is, right now on the books it says you have private land and I can't bring my dog on your land and let my dog defecate or even be on your lot without permission. I really don't understand why that same courtesy isn't extended to the lot owners of Mt. Prospect cemetery that is the issue. I also supplied the mass general laws that say to you that the roads in the cemetery can not be considered public ways. The cemetery again, by mass general law can't be used for anything else other than a resting place. It is not a place to exercise the dog. The dogs are going to go on the lawns they are not going to go on the street. I don't believe dogs should be in the cemetery.

Pam Fenner, 8 Winkley St. – I question having a law where there is so little ability to enforce it. The Dog Officer has to actually catch the dog in the act. The Dog Officer works very limited hours. I have

been impressed with the neighborhood in and around Mt. Prospect and their willingness to police the cemetery. I think there should be a campaign on better educating dog owners particularly about the leash law. I think there should be more signs out and put them in the entrances to the cemeteries and the public ways. Have those stands with the doggie bags. If there is anyway to amend the law that you already enacted so that cemeteries are open for dogs I would support that.

Councilor Benson – I want to thank Councilor Pinierio for tackling this issue, it is certainly a tough one. I worked on this a little before I ran at large and I thank him for taking it over. I know that there has been talk in the meeting we had with Councilor Pinierio that we would wait the summer and see how the neighborhood does in terms of policing. I really think that this problem is going to take care of itself. I think we should put up signs like Newburyport has and see how it goes and if need revisit the issue. Also, Esther brought up a good point about enforceability, it will be very tough to enforce. I would like to give it a try for the summer.

Marc Deschenes – Cemeteries are sacred ground. Dogs don't belong in cemeteries. I support Jane Snow and her efforts.

Councilor King – I am not familiar with Mt. Prospect cemetery. Is there any land there that is not grave site?

Councilor Pinierio – No, it can all be bought.

Councilor Chandler – I am a dog owner and I have to say that in times past I have spent a lot of time with my dog at Union Cemetery. I try to be a responsible owner and pick up after him. When this bill came up I got to thinking it is really a good idea because I know my dog is a male and he loves every grave stone that is out there. I thought that that isn't right. As far as Mrs. Fenner saying a majority is being penalized by a few who didn't really watch there dog and take care of them; my fear is that there is a few percent that do take care of them and the large majority don't. I would like to see this bill passed. I would also like to see a future bill come up that would enforce the laws with major fines and assessments.

Councilor Lawrence – There is always a problem enforcing any by-law in town. The dog officer can only do the best she can. Newburyport and Newbury have a leash law and pooper scooper law on Plumb Island and it does not work; there is a problem there. The signs are there and people ignore them, it is a health problem.

Councilor King – Mrs. Gleason is here who has done a great job at Woodsom Farm.

Susanne Gleason – Organized and ran the clean-up day at Woodsom Farm. It helped educate a lot of people about picking up dog waste. Wants a dog owners association to help educate dog owners.

Councilor Larnard – I just want to ask on the wording that you have on the fine, the wording any dog found at large. That doesn't seem to go along because you are saying that the law that you are passing is that they can't even be on the leash.

Councilor Pinierio – In the cemetery only. The dog officer has over 1200 licensed dogs in town.

Councilor Larnard – I just want to finish up on this. The one that we are voting on 2004-13 the first paragraph is saying you can't walk dogs in the cemetery then the second paragraph is tying a fine to it but the way your language is, any dog found at large but wouldn't it be even if the dog is found on a leash that they would be fined.

Councilor Benson – So just strike any dog found at large and replace that with a public cemetery governed and maintained by the town of Amesbury.

Councilor Larnard – As soon as it was brought up that these were private lots that made a lot of sense to me because that is why you can ban it. I have heard other people say if they are walking on the roadways they are public but then the second part of this language says no walking of animals in any public owned cemetery governed and maintained by the town of Amesbury. People have brought this up to me the point, is DPW then maintaining the cemetery, is that everybody's tax dollars. I don't know how people feel about that.

Councilor Pinierio – The DPW maintains the cemetery that was in 1958 when there was nobody else in that trust. The town of Amesbury took it over. There is \$100,000 in a trust and they are only allowed to spend \$17,000 in the Mt. Prospect Cemetery for maintaining the sites.

Councilor Larnard – Does that pay for the salaries for the DPW workers?

Councilor Pinierio – All I know is that the DPW Director says he uses some of that money when he has the DPW workers in there.

Councilor Benson – I believe that shows on the cherry sheet in the budget as a revenue.

Councilor Larnard – My only wording change was on the fine.

Councilor Lawrence – In reference to no dogs in the cemetery, taking out the running at large. The only reason we did this is we are trying to adjust all the fees because they are all outdated.

Councilor Lawrence – I move for approval of 2004-13 with the amended wording.

Councilor Pinierio – second

Councilor Larnard – I almost like the idea of going through the summer.

Roll Call Vote – Yes, 3 – No, 6 (Larnard, Woodsom, Benson, King, Headley and McMilleon)
Not Voted

**2004-22 Amend Amesbury Zoning Bylaw Section XI.H Planned Unit Development (PUD)
special permit – Mayor Hildt sponsor cont.**

President McMilleon – reads into the record.

Councilor Lawrence – The recommendation from the Ordinance Committee was to approve with the changes as submitted by the Planning Board. I will make that my motion.

Councilor Pinierio – second

Chris York, 13 Warren Avenue – I would like you to go over what the changes are.

Nipun Jain, Town Planner for Amesbury – The amendments that were made to the PUD special permit apply only to the PUD's as a special permit not to the PUD district. There are two different issues. Secondly, this by-law was amended to allow the town to have more ability to get affordable

units in high density developments. That was the underlying principal that we used when we reviewed the by-law at the planning board. The changes that have been made are to include up to 50% or even up to 20% affordable units in the PUD development by special permit. We also recommended allowing the board to reduce the open space requirement from 50% down to 20% if they have a public benefits provided by the particular development which would be giving more open space for playground purposes in the neighborhood or shared public parking or historic preservation or up to 20% affordable units as per chapter 40B section 20. Those were the changes made to the by-law.

Councilor Lawrence – Originally the ordinance committee had said to omit R8 and you recommended to put it back in and the reasons why?

Nipun Jain - The reason why we included R8 was there were on going debates in the master plan process as to how we can use existing infrastructure in the downtown and in the more densely developed areas where we already have existing infrastructure. There have also been recommendations to have more affordable units for the low and moderate income people in those areas. When we looked at the R8 we really saw only less than 1 percent developable land left. There is really no threat of seeing major developments it's only for parcels for over one acre and which are not developed that could potentially use this special permit. There are other vehicles in town that any developer or even a person who owns land in a R8 can use by conversion from single family to multi family. All we are trying to do is when someone wants to do higher density in the CDB, ICZD or R8 the town gets some ability to get affordable units as well.

Councilor Chandler – I see in chapter 16 down under B it talks about all community projects that are under new construction at least 50% of the land should be set aside for permanent usable open space for the PUD occupants for the community, the required open space may be conveyed to the Amesbury Conservation Commission to non-profit organization etc. I am concerned that the land that we require these guys to set aside, which is good taxable property now comes off the tax roles because they give it to some non-profit organization. Now we have 30 or 50 units with no tax on that land.

Nipun Jain – It is not taxed at the same rate. The open space has a different tax rate; it doesn't get taxed like any residential development. There is a certain percentage that the homeowners association still pays because they are using it for their enjoyment as well. It is not that the town is losing tax money on that open space. In one form or the other they are paying taxes on it because they have the rights to use that open space. It is part of the homeowner's documents that they have to maintain it and pay taxes as are applicable under the laws.

Councilor Chandler – I think of Maudsley View down off of Pleasant Valley Rd., that was a planned unit development I believe and they went in there and built 20 houses but they were built in a cluster and then they have 30 or 40 acres out in back that is owned in common I believe. Now I hope those houses are paying taxes on that land.

Nipun Jain – I do not know, you would have to ask the Assessor. Like I said there are different rates.

Councilor Larnard – I am looking at a letter that we got from the Building Inspector that he believes it is not in the best interest of the town to allow the PUD in the R8 district. I want to make sure that that has been clarified

Nipun Jain – That has been clarified. He agrees to include R8 in this version.

Councilor Larnard – He didn't put out another letter?

Nipun Jain – He did not.

President McMilleon – I will declare the public hearing closed.

Councilor Lawrence – I move for approval of 2004-22 as amended by the planning board.

Councilor Benson – Second

Roll Call Vote – Yes 8, 1 Abstain (Chandler)

2004-23 Amend Amesbury Zoning Bylaw Section V.E.6.D.1. – Obtaining permits for single unit/lot housing developments – Mayor Hildt sponsor cont.

President McMilleon – reads 2004-23 into the record and declares the public hearing open.

Chris York , 13 Warren Ave. – I would like Nipun to clarify this.

Councilor Lawrence – This has been tabled, the Mayor has requested that this be continued.

President McMilleon – Any other comments? I will declare the public hearing closed.

Councilor Lawrence – The request of the Mayor is that no action is taken at this time until further notice.

Councilor Benson – I move that we continue to our next meeting.

Councilor Pinierio – Second

Voted – Unanimous

2004-24 Amend Amesbury Zoning Bylaw Section V.E.6.A – Mayor Hildt sponsor cont.

President McMilleon – reads 2004-24 into the record and opens the public hearing.

Councilor Lawrence – I move that we continue until our next meeting June 8th.

Councilor Pinierio – Second

Voted – Unanimous

2004-44 A Request that the Municipal Council approve an access, landscape and drainage easement for #17 Main Street, Amesbury – Mayor Hildt sponsor

President McMilleon – reads 2004-44 and opens the public hearing.

Christopher Deorocki – Representing both Counting House, LLC and Sovereign Investors Corp. I'm here tonight asking that you approve and access, landscape and drainage easement for #17 Main St.

Councilor Lawrence – The recommendation from the ordinance committee was to approve as submitted. I move the recommendation of the ordinance committee to approve.

Councilor Chandler – Second

President McMilleon – I will declare the public hearing closed.

Roll Call Vote – Yes 9, Unanimous

2004-45 A Request that the Municipal Council approve a building easement for #17 Main St., Amesbury – Mayor Hildt sponsor cont.

President McMilleon – reads 2004-45 into the record and opens the public hearing.

Christopher Deorocki – Again we are asking you to pass this.

President McMilleon – I will declare the public hearing closed.

Councilor Lawrence – The recommendation from the ordinance committee was to approve 2004-45 as submitted. I will make that my motion.

Councilor Benson – second

Roll Call Vote – Yes - 9 Unanimous

2004-50 An Ordinance to see if the Municipal Council will vote to amend the Amesbury Zoning Map to change Map 53 Lot 56 (40 Elm St) and Map 53 Lot 108 (3 Ring St) from IC to CBD – Mayor Hildt sponsor cont.

President McMilleon – reads 2004-50 into the record and opens the public hearing.

Chris Deorocki, Representing the Barn Pub & Grill – Ring Street and the corner house is currently in the central industrial district and is not a permitted use as a restaurant. All we are asking to do is to have it changed to the CBD where a restaurant is a permitted use.

Councilor Lawrence – The recommendation from the ordinance committee is to approve 2004-50 I will make that my motion.

Councilor Benson – second

Councilor Woodsom – Did this go to the planning board?

Bonnijo Kitchin – Yes, it did go to the planning board, they have not done anything.

Nipun Jain – We checked the records and this was not presented at the planning board. There has not been any recommendation from the planning board on this bill.

Councilor Woodsom – Doesn't this seem like spot zoning?

Nipun Jain – Like the attorney said it would seem like it is spot zoning but, it is not isolated land or a use that has been zoned for that particular purpose, it abuts a particular zone that it is being asked to be zoned for. That is how it needs to be looked at not an isolated lot or use. It would be in keeping what the adjoining zone is.

Councilor Pinierio – The building next door to the barn is what you are referring to, I think what the council is worried about is that someday they might turn that into a commercial building. It is apartments now you want to change the zoning. Why would you want to change that, why not leave it as it is? What does that have to do with the barn?

Nipun Jain – Councilor, I have not looked at it.

Chris Deorocki – For two purposes; one is to block that area out. If you look you have the parking deck directly behind the barn. To the front of it as a contiguous and bordering it is the depot which is in the CBD these two would block that out and just make it square. The land owner that owns that property in the industrial has asked me to change the zoning on it. The fact remains that whether it is residential or a restaurant neither of these uses are permitted in the Central Industrial District. They are both permitted in the CBD. We are trying to take two uses that aren't permitted in one district and put them in the district that they arguably should have been placed in the first place.

Councilor Chandler – They are both non-conforming uses right now so we are just trying to make them conform.

President McMilleon – I would ask Councilor Lawrence would you amend your recommendation to continue until we have the planning board recommendation.

Councilor Lawrence – Yes

President McMilleon – Motion made to continue and refer to the planning board.

Councilor Benson – second

Voted – Unanimous

NEW BUSINESS

2004-42 A Resolution to amend Council Rules 11A, Finance Committee – Councilor Joseph McMilleon sponsor cont.

President McMilleon – reads 2004-42 into the record.

Councilor Benson – I move we refer this to the Rules and Procedures Committee

Councilor Larnard – second

Councilor King – We need to schedule a meeting for that.

President McMilleon – We don't have to determine the night of a meeting right now. We can just refer it to Rules and Procedures and they can get together and post it.

Voted – Unanimous

2004-55 A Request to accept M.G.L., Chapter 140, Sec. 185I, License required for Telling of Fortunes for Money and establish a fee for said license – Councilor Benson sponsor

President McMilleon – reads 2004-55 into the record.

Councilor Benson – I move we refer this to the ordinance committee.

Councilor Chandler – Seconded

Voted - Unanimous

2004-58 An Order to authorize the transfer of \$7,500.00 from Reserve for Unforeseen to Veterans Assistance Benefit – Mayor Hildt sponsor

President McMilleon – reads 2004-58 into the record.

Councilor Woodsom – I move we refer this to the finance committee.

Councilor Benson – Seconded

Voted – Unanimous

2004-57 An Order to authorize the transfer of \$20,000.00 from Reserve for Unforeseen to Legal Services General – Mayor Hildt sponsor

President McMilleon – reads 2004-57 into the record.

Councilor Woodsom – I move we refer this to the finance committee.

Councilor Benson – second

Voted – Unanimous

COMMUNICATION FROM ELECTED OFFICIALS, BOARDS AND COMMISSIONS

2004-60 Town of Amesbury Master Plan – Mayor Hildt sponsor

Councilor Benson – Mr. President we need to refer this to a workshop and keep in mind that we are under the gun and we should have this workshop before our next meeting. It is unfortunate but we need to have another meeting in May to take up this issue. I think we should hold a public hearing that same night and do it all at once.

Don Furman, Kimball Road – Bob Lavoie and I are Co-Chairs of the Master Plan Steering Committee. The due date for the submittal of the plan to the state is June 30th. The planning board and the municipal council need to review the plan and approve it for adoption. It is not essential that every single omission or error be corrected in the document. We can submit a draft and submit a final version at a later date. It is not absolutely critical that the final document be submitted June 30th.

Councilor Benson – A draft has to have council approval.

President McMilleon – We are going to have a meeting sometime around June 22nd our second meeting in June to finish up on the budget. We conceivably have until June 22nd.

Councilor Pinierio – Will that give us enough time to go over it?

Councilor Benson – That is what I am concerned about is that if we do this during a council meeting it is going to be a long discussion. I see this as at least a 2 hour discussion. If we do that on the night of the June 8th meeting, it will cause a problem.

Councilor King – This may help, it is being presented in front of the planning board, would it be the same presentation in front of the planning board as the municipal council. Obviously we have to have the public hearing but, for our own information maybe if we went to the planning board presentation then that is our first dip into it aside from reading it and then when we come back for our hearing we have heard the discussion and all those other issues and when it comes in on June 8th we are that much more informed.

Councilor Benson – I wonder since we are meeting that night with the planning board, I wonder if there is a way that we can co-ordinate our meetings and hold a joint public meeting.

Don Furman – It is not a presentation in the sense that we are going to have a power point show and go through every point on the document. It is to submit it for your review. We do expect that you would read it off line and then come back at a subsequent meeting or workshop for comments.

Councilor King – So are we going to have a master plan presentation.

Don Furman – Not for review purposes just to submit it. There will be a final public presentation.

Nipun Jain – For the adoption of the master plan there needs to be public hearings and what we have done right now is given you the draft document. Like any zoning bylaw we would hope that the planning board members as well as the council members would look at the document and there would not be any formal presentation at the public hearing. You are right Councilor Benson there will be lots of questions, it is a big document. We would have to co-ordinate maybe some joint meetings or workshops so we can explain to the members what the plan is about. We can still get this plan to the state as a draft.

President McMilleon – We have the document now so lets say for example we went with the June 8th, we would have between now and June 8th to look this document over to write down and make notes on any questions we may have. If we go into the June 8th meeting and we address some of those questions and spend an hour or two it doesn't mean we have to complete it on the June 8th meeting. The following week you are talking about having some sort of a public presentation on this and then we are going to come back and have another meeting on June 22nd so we could reconvene our discussion on it. I'm trying to say we have enough time and enough meetings already scheduled that we can at least get to a draft level.

Councilor King – On the face sheet of the master plan it say that the public hearing is June 8th which is our council meeting.

President McMilleon – Regardless what dates have been tossed around we can set it up really any way that we want to set it up. All I was suggesting before was that we were having a regular council meeting on the 8th and it might make sense for us to at least try to begin the process of reviewing this on the eighth. We can then schedule the public hearing sometime after that and then we are going to have a regular council meeting on June 22nd to approve the budget so we can continue our discussion to at least have a draft to approve.

Councilor Woodsom – So you are saying no workshop and do it at the two council meetings and see how it goes, if you are saying that I agree. I move that we table this to our June 8th council meeting and hold a public hearing.

Councilor Pinierio – Second

Voted – Yes – 8, No 1 (Benson)

COUNCIL COMMUNICATIONS, ANNOUNCEMENTS AND COMMITTEE REPORTS

President McMilleon – I have one item that I want to bring up with the council. Waste Management which does our trash collection. We have had some real problems on both Kimball Road and Lake

Attitash and in that area. On a couple of occasions during the last 2 or 3 weeks, and I have been in touch with the Mayor about it, and he has had contact with them. We've had them come into the council probably a year ago but, I would like to have them come in and address this problem. I would also like to have a letter sent to the town council to find out what are our options if they are not fulfilling the contract. This is a real problem. We had trash out in front of homes for four or five days. Animals were getting into them; it was very unsanitary it is a big concern up there.

Councilor Benson – I think it is happening all over town, 2 or 3 days late or more.

President McMilleon – I would like to make a motion to ask them to come in and send a letter to town council.

Councilor Benson – I will second that.

Voted – unanimous

2004-61 FY05 Budget

President McMilleon – reads into the record.

Councilor Benson – I move we accept the FY2005 budget and refer it to the finance committee.

Councilor King – second

Councilor Chandler – I would like to complement the people from the Master Plan on getting that on line so it is available to all our citizens. I think at the same time I would like to know if this budget is on line. We have a lot of town residents who aren't really going to get to see this unless it is on line.

Bonnijo Kitchen – People can get a copy in my office.

Voted – unanimous

Councilor Lawrence – I just want to remind everyone that on Tuesday, May 18th at 6:30 it is the 118th Annual Amesbury Improvement Association dinner.

Councilor King – The High School Building Committee asked me to remind the Councilors that they are invited to the ground breaking ceremony on Sunday the 16th at 2:00.

Councilor Larnard – I wanted to thank Jim Thivierge for his commitment and creativity to the town. I am looking forward to reading what he submitted to us tonight.

Councilor Benson – I move we adjourn

Councilor Chandler – second

President McMilleon – We are adjourned

10:15PM

Respectfully submitted

Assistant Town Clerk